

Workers' Compensation Advisory Committee (WCAC)

Meeting Minutes

May 30, 2006

Committee Members:

Business Representatives: Kris Tefft, Association of Washington Business; Mike Sotelo, W. G. Clark Construction Company; Jon Warling, Mon-Jon Orchards

Labor Representatives: Owen Linch, Joint Council of Teamsters No 28; Dave Johnson, Washington Building & Construction Trades Council; Robby Stern, Washington State Labor Council, AFL-CIO, Ellie Menzies, Service Employees State Council, Self Insured Workers' Representative

Self Insured Employer's Representative: Katrina Zitnik, Costco Wholesale

Ex Officio Member: Tom Egan, Board of Industrial Insurance Appeals

Chair: Bob Malooly

Recorder: Gwen Reed

Presenters: Bob Malooly, Tom Egan, Roy Plaeger-Brockway, Bill Vasek, Mike Ratko, Christine Swanson, Sara Spiering, Gary Weeks, Vickie Kennedy

Guests: Anna Lisa Gellerman, Steve Duncan, Beverly Simmons, Paula Faas, Jan Gee, Clif Finch, Amy Brackenbury, Michael Temple, Lucinda Young, Paulette Avans, Richard King, Rick Slunaker, Carolyn Logue, Mark Johnson, Ann Jarvis, John Meier, Allison Mendiola, Dave Kaplan, Janice Camp, Sara Dylag, Larry Brown, Richard Fenske, Kirk Mayer, Jim Hazen, Janet Lewis, Jamila Thomas-Roberts, Donna Egeland, Jeff Johnson, Gary Smith, Jill Reinmuth, Nancy Dicus.

L & I Staff: Gary Weeks, Bob Malooly, Mike Ratko, Gene Kirk, Jean Vanek, Bill Vasek, Barb Collier, Lisann Rolle, Diane Doherty, Gary Herschberger, Christine Swanson, Joshua Ligosky, R T Nelson, Cheri Ward, Heather McCormack-Martin, Sandy Dziedzic, Roy Plaeger-Brockway, Sara Spiering, Ernie Lapalm, Judy Schurke, Vickie Kennedy, Patrick Woods.

Meeting Minutes and Reminders:

Minutes were approved as written.

Bob reminded everyone that the meeting was being recorded and if they have anything to say to please use the microphone at the podium.

Bob updated the committee on where the department is with recruitment for a new Employer Services Program Manager. The first group of applicants did not produce a candidate so the announcement has been reopened for recruitment. Limitation on state salary levels for this position are making it very difficult to find someone with the appropriate insurance experience.

Medical Guidelines Committee Update: Unfortunately, the Washington State Medical Association has decided to not participate in the Medical Guidelines Committee process. The department will be preparing a proposal for funding a new guidelines committee.

Labor expressed concern over how the department would recruit members from the medical community for participation.

Bob let the committee know that all details have yet to be worked out as to how the selection will be done. The department is aware of concerns about the objectivity of the selection process and will take this into consideration as it proceeds.

Bob will provide the committee with an update at the next meeting.

Artificial Disk: Bob updated the committee that Medicare made a non coverage decision for all members who are over 60 years old and left the decision for those under 60 years old to each regional Medicare program. The regional carrier for Washington State made a non coverage decision for those under 60 years old.

Audits: Bob updated the committee on the actuarial audit and possible performance audit that the department is expecting.

Actuary Audit - There is concern with the length of time it is taking to release the RFP at this late date most of the work for the 2007 rates will be completed before the outside actuary comes on board.

Performance Audit – Judy Schurke stated that the state auditor has met with the department, but that they did not confirm that a performance audit will be done at Labor and Industries. The department will update the committee as more information arises.

Workers' Compensation Finance Committee: At the present time there are three members from labor and two from business. The third business position will be filled soon. The department will then proceed with scheduling meetings.

ORCA Security Follow up: Handouts that outline the security the department has in the L & I claim and account center were distributed. Bob offered a more detailed question and answer session if needed at an upcoming meeting.

Customer Video: A video of Dianna Chamblin, MD, Director of Occupational Medicine, Everett Clinic was shown.

Board of Industrial Insurance Appeals Update – Tom Egan: Tom presented updated figures for the Industrial Appeals. There were no significant changes from last quarter.

Dates for the Board of Industrial Appeals public discussion forums are as follows: September 14, Spokane, September 20, Yakima, November 6, Seattle, and November 8 in Olympia.

Third Party Pharmacy Billing Issues – Roy Plaeger-Brockway:

Pharmacy Billing Issues – Roy has recommended that the department rescind all third party pharmacy billing. (*third party pharmacy billing is when companies buy bills from pharmacy chains and then bill the workers comp insurer.*)

Impacts to the department with third party billers are:

- Bypass of the Electronic Point of Sale System
- Paper Claims (Approximately 125,000 bills need to be entered manually)
- Circumvents the following safety screens:
 - Dangerous combinations of drugs
 - Refills to soon
 - Duplicate drugs
 - High doses of drugs.
- Third party billers are not qualified healthcare providers
- Do not maintain pharmacy records
- Difficult to audit

Labor and business felt that the pharmacies or someone representing the pharmacists that are using third party billers should be heard from before a decision is made.

Bob suggested having someone from the pharmacy association at the next meeting.

Labor was concerned that pharmacies who are currently using third party billers could possibly stop covering injured workers and that they would leave the workers having to find a pharmacy that would cover their claim. They would like more information regarding increasing the dispensing fee before a decision is made.

Roy agreed to begin gathering information to see if the pharmacies currently using third party billers would be willing to stop and bill the department directly if the dispensing fee was increased.

The decision will apply to state fund only.

A decision was postponed until the next meeting.

Orthopedic Pilot Project Update – Roy Plaeger-Brockway:

To encourage the participation of quality providers and surgeons to treat injured workers, the department is reducing the “hassle” factor and offering incentives for best practices. Three forms will be combined into one simplified form. The two best practices for which incentives are being offered are: seeing the patient within seven days of the patient calling the office; and, once surgery is approved, getting the patient in within 21 business days. The first group of surgeons begins in July. The University of Washington will evaluate the experiment and the department feels that it will take two years to know if there are improved outcomes.

Proposed 2007 Experience Rating Plan and Financial Update - Bill Vasek:

The department is proposing changes to the 2007 Experience Rating Plan to make the plan simpler, more accurate, and more robust.

The current formula the department uses is a very old formula and is difficult to understand. The formula was developed when manual calculators were used to calculate every single experience factor. Speed was of the essence, and the old formula saved a single keystroke in each calculation. The proposed formula will be simpler and easier to understand.

We are also making the system more accurate by changing the credibility weights assigned to firms' experience. We are increasing the credibility that we give to the small firms. For the medium to large firms we have been giving too much credibility and we are going to lower it. We are designing the new credibilities so that they are more accurate in predicting firms' future experience, and to help equalize the firms' expected future loss ratios. This should be a more fair system after we make these changes. We have been working hard designing new credibilities in order to have them ready by August.

We are also making the system more robust, which means that small changes to claims costs will result in more reasonable changes to the experience factors. This will be done by deducting twice the average medical only costs, from each non-disability claim, and also increasing the credibilities for small firms to become closer to the credibilities we now give for claim-free firms.

Business asked how the department will adjust for the high risk employer with few employees who may have the same premium volume as a low risk, large

group. If you are breaking out the firms into different size groups based on premium volumes, isn't it possible that those that are included in that group, high risk small employers with low risk large employers?

Bill responded that the department has a different system for compensable-claim-free firms. These are all the firms with no disability claims in their experience. Also, following accepted actuarial methods the appropriate credibility is based on the expected loss size for that experience. So the amount of credibility assigned to a firm will be based on the expected loss size of that firm, not on whether the firms are 'high risk' or 'low risk' or with few employees or many.

It was asked if the department will be disclosing accepted actuarial methods?

Bill informed the committee that the department will be developing a report and he will be sharing this information.

Bill confirmed that a claim with only two days of lost time is considered a Medical Only claim, and he also confirmed that the 25% rule in WAC 296-17-855 will not be changing for 2007.

As more work is completed Bill will update the committee and he will present the report once it has been completed.

Financial Statements – Bill Vasek

Bill reviewed the financial statement that was prepared by the Financial Services Program. He reminded the group that the report includes nine months of data. The format had been changed to add more detail. He asked the committee for feedback on how they liked the new format, and whether they would like to see additional detail.

Labor requested that pension benefits paid be broken out between the state fund and self insurers.

Bill stated the process is complicated, but would see what could be done.

The department's goal is to make the financials as transparent as possible, and to provide sufficient detail for people to see what is going on with the funds. The department will look to see whether there is a cleaner presentation of the self insured pension expenses. This might be better as an attachment to the report as opposed to making the report itself longer.

Labor asked to see comparative data for FY04 and FY05

Proviso Update – Use of Workers Comp Funds – Mike Ratko:

The department has been asked to prepare a report identifying programs funded directly or indirectly with worker compensation funds. The report will describe what amounts and percentages of the funds are used to administer the workers' comp system and the criteria used to make those funding decisions. The department will work with the WCAC to develop recommendations for equitable, adequate and stable funding sources for the identified programs. Report is due by December 1, 2006

Mike provided a detailed overview of how the department spent workers' compensation funds during fiscal year 2005.

Labor wanted clarification on what the role of the workers' compensation finance committee would be in regards to the proviso and if the numbers would be presented to the finance committee before the advisory committee.

Gary clarified that the role of the finance committee would be to focus on issues such as rate setting and discount rate policy, not the proviso report.

Employer Reporting – Sara Spiering:

Sarah updated the committee on the employer reporting legislation. Selection criteria, changes to the report of accident, the process that the department will be using, and key dates were reviewed.

Business asked if a company that has a citation for a serious hazard that is currently under review can participate in the employer reporting pilot.

The answer was yes, however, they would be excluded if any citation had been affirmed.

Labor and business felt that screening this finely would skew the study outcome. The results would not be accurate due to the exclusion of all bad seeds and the department would not have an accurate picture of whether or not this program was successful.

Labor asked if the requirements are legislative requirements.

Gary responded no. However, many of the requirements were discussed with legislative staff as the bill was drafted. He also said the department would make sure that written materials are given to workers and that the department would survey workers and keep logs so all things could be verified. The survey is in the legislation and the department will survey after the first and second year to see how the pilot is doing.

Labor suggested that information be available in more languages than English.

Labor asked what level of interest the department has received from employers.

Sarah indicated that the department had received 111 emails of interest, to date.

Legislative Process Update – Gary Weeks

Gary Weeks outlined who to contact if labor or business has any input into the leg process:

- Vickie Kennedy is the point for ideas regarding changes or improvements to the system.
- Bob Malooly and Judy Schurke are also contacts for ideas as they develop.
- Bob's job is to figure out how well we are managing the workers' comp system.
- Christine's job is make sure we keep the process going through the summer and into early fall.

State to State Comparison – Bob Malooly

Bob gave a presentation on how our workers' comp system compares to other states.

Labor asked if the data included in the presentation is the most recent data.

Bob responded that this is the most recent data available and that some of the studies are only done every five years. Thus, it is difficult to get a contemporary benchmark for all the measures. In addition, it is difficult to get a multi-state comparison that everyone can agree with due to the differences among states.

State Fund Trends - Vickie Kennedy

Vickie provided a myriad of information regarding our system.

Vickie discussed the complexity of determining a worker's wage and shared that it is taking the department an average of four months to issue a wage determination.

Labor asked to what degree the wage determination challenge was related to complexity and to what degree it was related to claims load.

Sandy explained that it can take up to a month to get information back from employers and that there are a lot of details depending on the industry and type of work. The statute was written back when there were very few flexible work schedules and pay differentials. The process is complex for claims managers and sometimes it takes eight hours to calculate one person's wages.

Vickie also presented information regarding return to work and the voc rehab system, indicating that the department would like to improve the effectiveness of the dollars that are being spent on vocational services?

Labor would like to see quarterly data.

At our next meeting, Bob suggested that Sandy provide a short presentation that runs through all the administrative improvements she's implemented such as getting better people in the door to train as claims managers, improved the training processes and reduced cycle time. Bob indicated that we are approaching a point where further improvements may require legislative changes.

2007 Legislative Topics for Consideration – Gary Weeks and Bob Malooly

Gary reviewed the legislative areas that have been identified for further discussion.

- Benefit adequacy
- Administrative efficiencies and services
- The pension system
- Return to work and Voc Rehab

Labor asked if the department has a subcommittee working on voc rehab and what the expectations were in terms of the inner play between that voc rehab subcommittee and the summer leg discussions.

Vickie indicated that any future discussion should be lead by the subcommittee and felt that the group would have ideas to talk about more fully later in June.

Jon questioned whether the department would be proceeding with a bill regarding labor contractors and he would like to be involved in that bill.

Gary responded with the governor has indicated that she would support the department going ahead and developing that legislation. The department will work with the bill that was last worked and everyone who has worked on the bill will be notified.

Bob spoke on the self insurance bill. The department will proceed and encouraged the parties to get together and continue that effort.

Meeting Adjourned